



In a medical excuse note dated August 27, 2015, Dr. Umair Malik, a Board-certified family physician, noted evaluating appellant that day. He indicated that she was under his care and was incapacitated due to mental stress from August 20 to September 20, 2015. Dr. Malik advised that appellant could return to work on September 21, 2015.

By development letter dated September 17, 2015, OWCP advised appellant of the evidence needed to establish her claim. This was to include a physician's opinion, supported by a medical explanation, as to how the work incident caused or aggravated a medical condition. Appellant was asked to describe any similar disability or symptoms that occurred prior to the injury and to provide records of prior treatment. She was also asked to describe the claimed incident in detail and was afforded 30 days to respond. In a separate letter, OWCP also requested the employing establishment to furnish information about the claimed incident.

In reports dated September 29, 2015, Nicholette Leanza, M.Ed., a licensed professional clinical counselor with supervision designation, noted seeing appellant for a diagnostic psychological assessment. She noted a history that suspicious activity on appellant's mail route caused anxiety and stress. Ms. Leanza diagnosed acute stress disorder and advised that it was caused by the employment incident. She recommended continued therapy and advised that appellant could return to work on approximately October 5, 2015.

In an October 5, 2015 statement, appellant indicated that on August 13, 2015 she did not deliver a suspicious package and returned it to the station. She related that she was followed as she returned to the station. Appellant continued that on August 17, 2015 two postal inspectors interviewed her about the package and had her identify two men, the one receiving the package and the one who followed her. She related that the postal inspectors assured her that she would not be identified in any investigation, but that on August 20, 2015 she was interviewed by two different postal inspectors who informed her that the two men had been arrested and were out on bail. The postal inspectors informed her that her name would be on federal indictments and asked if she would be more comfortable delivering another route. Appellant indicated that she then became fearful for her safety, became upset, and left work. She advised that she returned to another station on October 5, 2015. A union steward was present during the August 17, 2015 interview and for part of the August 20, 2015 interview.

By decision dated October 26, 2015, OWCP found that the event or events occurred as alleged, but denied the claim because appellant had failed to submit sufficient medical evidence to establish that a medical condition was caused by the established work factors.

Appellant timely requested a hearing with OWCP's Branch of Hearings and Review. She submitted an undated narrative statement in which D.C., customer service supervisor, advised that on August 13, 2015 appellant called her and stated that she was being followed by a man in a black car who approached her while she was delivering and asked about a package. D.C. indicated that appellant told her that she felt unsafe, that she took pictures of the car following her, and that she brought the package the man was looking for back to the station. After approximately 15 minutes, appellant returned to her route.

At the hearing, held on July 20, 2016, appellant testified regarding events that began in early August 2015 regarding suspicious packages for her route. She indicated that this

culminated with the interview with postal inspectors on August 20, 2015. Appellant continued that the claim was for a series of events, noting that she was approached several times in August 2015 by one of the men she identified to the postal inspectors. She stated that these events caused stress and anxiety, and her doctor kept her off work until she returned to a different station on October 5, 2015.

Appellant submitted an after visit summary of the August 27, 2015 appointment with Dr. Malik. Dr. Malik diagnosed stress at work and advised that she should consult with psychiatry and return in approximately one week.

In a medical excuse note dated September 15, 2015, Dr. Shakuntala Kothari, a Board-certified internist, noted evaluating appellant that day. She indicated that appellant was under her care and could return to work on October 5, 2015. A partial report from Dr. Kothari's September 15, 2015 examination advised that she should consult with psychology for anxiety and abnormal weight gain.

By decision dated September 17, 2016, an OWCP hearing representative found the medical evidence of record insufficient to establish causal relationship between the accepted employment incidents and any diagnosed condition. She affirmed the October 26, 2015 decision.<sup>2</sup>

On October 31, 2016 appellant requested reconsideration. She noted that, after the September 17, 2016 decision, she had forwarded a report from her physician.

In correspondence dated September 29, 2016, Dr. Kothari noted that she was providing details of the medical illness that ensued due to a work-related incident in 2015. She indicated that appellant was first seen on August 27, 2015 by a colleague for an incident at work which resulted in several physical symptoms. Dr. Kothari described appellant's report that she suspected that a client on her mail route was obtaining drugs *via* the mail system that she was delivering them to his home. Appellant reported this to her supervisors and then noticed that someone was following her along her mail route which she also reported, indicated that police were involved, and that both offenders were arrested. Dr. Kothari continued that appellant identified them with the understanding that she would remain anonymous and that her name would be withheld at any proceedings, but that both men were released on bail, and appellant was then visited by federal inspectors who told her that the men would be rearrested and that her name would be mentioned in legal documents. She advised that appellant presented to her office with fear for herself and her family, and was given time off work by a mental health counselor and was referred to a psychiatrist for anxiety, fear, and stress due to the workplace incident. Dr. Kothari indicated that she saw appellant in follow up on September 15, 2016 with symptoms of severe anxiety, fear, and stress. She noted extending appellant's leave to allow for the change in mail carrier duties at work, and that she returned to work on October 6, 2015.

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<sup>2</sup> The hearing representative further found that, upon further review or development to the case, OWCP should ensure that a statement of accepted facts include a detailed account of the work events that had been accepted as factual.

In a merit decision dated February 2, 2017, OWCP found that appellant had established that she was involved in an investigation pertaining to drug packages being delivered on her route and that, as Dr. Kothari diagnosed medical conditions, this had established that she sustained a medical condition. It denied the claim, however, because Dr. Kothari did not explain how the employment incidents caused the diagnosed conditions.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA and that the claim was timely filed within the applicable time limitation period of FECA.<sup>4</sup> When an employee claims an injury in the performance of duty,<sup>5</sup> he or she must submit sufficient evidence to establish a specific event, incident, or exposure occurring at the time, place, and in the manner alleged.<sup>6</sup> The employee must also establish that such event, incident, or exposure caused an injury.<sup>7</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>8</sup>

OWCP regulations define a traumatic injury as a condition of the body caused by a specific event or incident or series of events or incidents within a single workday or shift.<sup>9</sup> The regulations define the term “occupational disease or illness” as a condition produced by the work environment over a period longer than a single workday or shift.”<sup>10</sup>

To establish a stress-related condition in the performance of duty, appellant must submit the following: (1) medical evidence establishing that she has a stress-related disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to her condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her stress-related condition.<sup>11</sup> The medical opinion must be one of reasonable medical certainty and must be supported by medical

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> 5 U.S.C. § 8101(1); *L.M.*, Docket No. 16-0143 (issued February 19, 2016); *B.B.*, 59 ECAB 234 (2007).

<sup>5</sup> *Id.* at § 8102(a).

<sup>6</sup> *J.C.*, Docket No. 16-0057 (issued February 10, 2016); *E.A.*, 58 ECAB 677 (2007).

<sup>7</sup> *Id.*

<sup>8</sup> *R.H.*, 59 ECAB 382 (2008).

<sup>9</sup> 20 C.F.R. § 10.5(ee); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>10</sup> *Id.* at § 10.5(ee).

<sup>11</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>12</sup>

### ANALYSIS

OWCP adjudicated this case as a traumatic injury claim. However, it accepted that appellant was involved in an investigation pertaining to drug packages being delivered on her route. As appellant testified at the July 20, 2016 hearing, the events involving this investigation began on approximately August 13, 2015 when she was on her route and was questioned by a man regarding a package and was followed by another man. On August 17, 2015, when questioned by two postal inspectors, she identified these two men. On August 20, 2015 two different postal inspectors questioned her and, at that time, because the men were free on bail, she became fearful, left work, and did not return until October 5, 2015 when she began work at a different postal facility. Thus, as the circumstances surrounding this investigation occurred over several days, and as appellant indicated at the hearing, the Board concludes that it is an occupational disease claim.

The Board, however, finds the medical evidence of record is insufficient to establish that appellant sustained a stress-related condition caused by the accepted incidents related to the investigation.

Dr. Malik generally noted that appellant was incapacitated due to mental stress from August 20 to September 20, 2015. He did not describe any specific events that caused stress or provide a specific diagnosis.<sup>13</sup> Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>14</sup>

The reports of Dr. Kothari are also insufficient to establish causal relationship. Dr. Kothari's September 15, 2015 reports merely indicated that appellant was under her care and should see psychology for anxiety and weight loss. In her September 29, 2016 correspondence, while Dr. Kothari indicated that appellant had been seen by a colleague for an incident at work which resulted in several physical symptoms, she did not describe any physical symptoms or offer any physical diagnoses. She related some of the events regarding the postal investigation and noted that appellant was referred to a mental health counselor and psychiatrist for stress due to the workplace incident and continued to see her for severe anxiety, fear, and stress. Dr. Kothari, however, did not offer any medical rationale, explaining the nature of the relationship between her diagnoses and their relationship with the specific employment factors identified from the incidents of the investigation.<sup>15</sup>

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<sup>12</sup> Roy L. Humphrey, 57 ECAB 238 (2005).

<sup>13</sup> Leslie C. Moore, *supra* note 11.

<sup>14</sup> Michael E. Smith, 50 ECAB 313 (1999).

<sup>15</sup> See W.W., Docket No. 09-1619 (issued June 2, 2010).

The reports from Ms. Leanza do not constitute competent medical evidence. Section 8101(2) of FECA defines the term “physician” to include surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law.<sup>16</sup> There is no evidence establishing that Ms. Leanza, a licensed counselor, is a licensed clinical psychologist, which would qualify her as a physician as defined under FECA.<sup>17</sup>

As none of the physicians of record provided a sufficient explanation regarding whether appellant’s stress-related condition was caused or aggravated by employment factors, she did not meet her burden of proof to establish an employment-related injury.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant failed to meet her burden of proof to establish an employment-related injury or condition causally related to factors of her federal employment.

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<sup>16</sup> 5 U.S.C. § 8101(2).

<sup>17</sup> See *N.M.*, Docket No. 08-2018 (issued September 8, 2009).

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 2, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 10, 2018  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board